IN THE HIGH COURT OF JUDICATURE FOR

RAJASTHAN AT JODHPUR

::::

O R D E R

Ram Kumar Chhipa
Vs.
The Ganganagar Central Cooperative Bank Ltd. & Anr.

S.B. CIVIL WRIT PETITION NO.3537/2002 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 15th December, 2006

PRESENT

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Mr.Pramila Acharya, Advocate for the petitioner.
Mr.Vinod Bhadu, Advocate for the respondents.

BY THE COURT

The petitioner in this petition has challenged the order dated 12th September, 2002 whereby he was reverted to the

post of Class-IV employee.

The petitioner was earlier promoted on the post of L.D.C. on ad hoc basis by order dated 12th September, 2001. According to the petitioner, he passed secondary examination with the permission of respondents from the Rajasthan Madhyamik Shiksha Board, Ajmer in the year 1988. He thereafter passed senior secondary examination from the Uttar Pradesh Madhyamik Shiksha Board in the year 1994. A seniority list of Class-IV employees was issued by the respondents on 02nd May, 1990 in which his name appeared at serial No.34. According to the petitioner, Class-IV employee having five years service with higher secondary qualification becomes eligible for promotion. The respondents promoted one Ranveer Ram Jakhar at serial No.35 and Harkesh Meena at serial No.51 in the aforesaid seniority list, but they did not promote the petitioner and simply ask him to discharge duties of the L.D.C. The respondents thereafter gave promotion to Gurbachan Singh and Chhiar Mal Kumawat both Class-IV employees by order dated 14th may, 2001. The petitioner submitted

representation to the respondents on 25th September, 2001 requesting for his promotion on the post of L.D.C. He was subjected to qualify the test which he passed on 03rd March, 2002 but he was not promoted. He was submitted another representation on 09th July, 2002. It was thereafter that the respondents by order dated 01st August, 2002 granted ad hoc promotion to the petitioner on the post of L.D.C. for a period of three months or till duly selected candidates as per recommendation of D.P.C. were available. Suddenly however respondents passed an order on 12th September, 2002 reverting the petitioner.

I have heard Mrs. Pramila Acharya, learned counsel for the petitioner and Mr. Vinod Bhadu, learned counsel for the respondents and perused the records.

Mrs. Pramila Acharya, learned counsel for the petitioner argued that the order reverting the petitioner was passed without following principles of natural justice and without an opportunity of hearing being given to him. Even though he was

originally promoted for a period of three months or till availability of duly selected candidates, but he was reverted within one and half months even when no selected candidates became available. Persons junior to him were promoted and were still working on the post of L.D.C. It was therefore prayed that the writ petition be allowed. The cases of Gurubachan Singh and Chhitar Mal Kumawat were exactly similar to that of the petitioner and the petitioner also fulfill all those conditions which those two possessed.

On the other hand, Mr. Vinod Bhadu, learned counsel appearing for the respondents argued that when the petitioner passed the test for appointment on the post of L.D.C., his case was referred to D.P.C. which considered the case of the petitioner for promotion but did not adjudge him suitable. Since there were only two posts available, D.P.C. recommended two names i.e. Gurubachan Singh and Chhitar Mal Kumawat. This was so because the petitioner secured lower marks than them and therefore the aforesaid two persons were preferred for promotion because they secured

higher marks.

I have considered the arguments advanced by learned counsel for the parties.

When this matter was listed in Court on 07th September, 2006 this Court found that even though the respondents have filed reply to the writ petition but they have not given any explanation as to why the petitioner was not promoted whereas his juniors were promoted. A direction was given to the respondents to clarify as to why Ranveer Ram Jakhar and Harkesh Meena who appeared at serial No.35 and 51 respectively in the seniority list dated 02nd May, 1990 were promoted earlier than the petitioner inspite of the fact that the petitioner appeared at serial No.34. The matter was again listed in the Court on 03rd October, 2006 and on the request, further time was granted. Then it was listed in the Court on 10th October, 2006 again. Further time of two weeks was granted to file additional affidavit to clarify the above position. This matter was then listed in the Court on 03rd November,

2006, again further time was allowed to the respondents to file affidavit. When the matter was again listed in the Court on 04th December, 2006 the respondents have still not filed any affidavit. They have not given explanation as to why when the petitioner is fully eligible for promotion he has been ignored in preference to his juniors. During the course of arguments, learned counsel for the respondents could not show any rule or instructions so as to justify promotion of juniors over seniors. The order dated 12th September, 2001 is similarly an order reverting the petitioner from ad hoc promotion on the post of L.D.C. to that of Class-IV. This was merely an ad hoc promotion granted to him by order dated 02nd August, 2002 and was not a regular promotion. But then the grievance of the petitioner is that his juniors Gurubachan Singh and Chhitar Mal Kumawat were also promoted on ad hoc basis on 14th February, 2001 while they have not been reverted but the petitioner has been reverted. Those two juniors to the petitioner still continue on the promotion post. If that be so, the petitioner cannot be reverted in preference to his juniors. The order of reversion even if it was on ad hoc basis having

been passed without reverting the juniors to the petitioner cannot be therefore justified in law and is therefore liable tob e quashed and set aside.

As a result of above discussion, the writ petition is allowed. The order of reversion dated 12th September, 2002 is quashed and set aside and the petitioner is held entitled to all consequential benefits.

[MOHAMMAD RAFIQ],J.

AKC.